

Jarrold A. Milner was convicted of Theft,¹ as a Class D felony, and adjudicated an habitual offender. As a result of the theft conviction, his probation was revoked. Jarrold appeals his conviction and sentence contending that the evidence was insufficient to support his conviction and that his enhanced and consecutive sentences violate Ind. Code § 35-50-2-1.3

We affirm.

Facts and Procedural History

In May of 2006, Peter Morton, the general manager of an H.H. Gregg appliance store in Terre Haute, Indiana was showing Milner a video camera when he was required to leave Milner to attend to other business. While Morton was away, Milner cut the security cable holding the camera, took the camera and ran from the store. Milner did not pay for the video camera. Morton followed Milner, saw him jump into a car, and saw the video camera on the car's console. Milner took down the license plate number of the car and called police. Morton identified Milner from a photographic line-up. A jury convicted Milner of theft and adjudicated him an habitual offender. The trial court revoked Milner's probation and ordered him to serve two years of the sentence previously suspended. It also sentenced Milner to two years on the theft conviction enhanced by two years for the habitual offender adjudication and ordered such sentence served consecutive to the sentence on the probation revocation. Milner now appeals.

Discussion and Decision

Milner contends that the evidence to support his theft conviction was insufficient because the State failed to prove that H.H. Gregg was the owner of the video camera.

¹ Ind. Code § 35-43-4-2

Milner relies upon *Hubble v. State*, 301 N.E.2d 396 (Ind. App. 1973) where a panel of this court reversed a theft conviction because the evidence of ownership was insufficient where it consisted of the hearsay testimony of the arresting police officer as to what the store sales clerk had told him and two store price tags found on the merchandise.

In reviewing the sufficiency of evidence, we look only to the evidence and reasonable inferences supporting the trial court's judgment without weighing the evidence or determining the credibility of the witnesses. *Miller v. State*, 770 N.E.2d 763, 774 (Ind. 2002). Ownership of stolen goods may be proved by circumstantial evidence. *Williams v. State*, 451 N.E.2d 700, 701 (Ind. Ct. App. 1981). Here, Milner stole a video camera from an appliance store dealing in such property. The store manager showed the camera to Milner as a prospective customer. The camera was mounted to a post by a cable to its display to prevent its theft — as were nineteen other video cameras offered for sale in the store. Milner cut the cable holding the camera and ran from the store. This evidence is sufficient for the jury to conclude that the camera was the property of H.H. Gregg.

Hubble, upon which Milner relies, is readily distinguishable. A majority of the court concluded in *Hubble* that the evidence of ownership was sufficient, but that the conviction should be reversed because there was insufficient evidence that the defendant exercised control over the stolen merchandise. Here, there is no issue presented as to the control that Milner exerted over the video camera.

Milner also contends that the trial court erred in sentencing him to consecutive terms of two years for the theft conviction and two years for the habitual offender

determination because of our holding in *Robertson v. State*, 860 N.E.2d 621 (Ind. Ct. App. 2007). There, we held that where a trial court is imposing consecutive sentences, the discretion of the trial court is limited to imposing the appropriate advisory sentence. Milner misconstrues our holding in *Robertson*. *Robertson* applies only where a defendant is convicted of more than one offense and the court orders consecutive sentencing. *Id.* at 624-25. An habitual offender adjudication is not a separate offense. *Moore v. State*, 769 N.E. 1141, 1145-46 (Ind. Ct. App. 2002). The sentence imposed on an habitual offender determination is an enhancement to the sentence on the underlying offense, not a separate consecutive sentence. Ind. Code § 35-50-2-1.3 does not apply, and the trial court did not err in sentencing Milner.

Affirmed.

DARDEN, J., and MATHIAS, J., concur.